

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO
Lead Supervising Deputy Attorney General
3 LINDA K. SCHNEIDER, State Bar No. 101336
Supervising Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266

7 Telephone: (619) 645-3037
8 Facsimile: (619) 645-2061

9 Attorneys for Complainant

10 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 NEVANNA SACKS, C.P.A.
2155 Via Sinalda
15 La Jolla, CA 92037

16 Certified Public Accountant Certificate
17 No. 78291

18 Respondent.

Case No. AC-2007-6

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20
21 In the interest of a prompt and speedy settlement of this matter, consistent with
22 the public interest and the responsibility of the California Board of Accountancy of the
23 Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement
24 and Disciplinary Order which will be submitted to the Board for approval and adoption as the
25 final disposition of the Accusation.

26 **PARTIES**

27 1. Carol Sigmann (Complainant) is the Executive Officer of the California
28 Board of Accountancy. She brought this action solely in her official capacity and is represented

1 in this matter by Bill Lockyer, Attorney General of the State of California, by Linda K.
2 Schneider, Supervising Deputy Attorney General.

3 2. Respondent Nevanna Sacks, C.P.A. (Respondent) is represented in this
4 proceeding by attorney Stephen Sutro, whose address is Duane Morris LLP, One Market, Spear
5 Tower, 20th Floor, San Francisco, California 94105.

6 3. On or about November 26, 1999, the California Board of Accountancy
7 issued Certified Public Accountant Certificate No. 78291 to Nevanna Sacks, C.P.A.
8 (Respondent). The Certificate was in full force and effect at all times relevant to the charges
9 brought in Accusation No. AC-2007-6 and will expire on February 28, 2007, unless renewed.
10 Since March 1, 2003 the certificate has been in an inactive status.

11 JURISDICTION

12 4. Accusation No. AC-2007-6 was filed before the California Board of
13 Accountancy (Board), Department of Consumer Affairs, and is currently pending against
14 Respondent. The Accusation and all other statutorily required documents were properly served
15 on Respondent on September 29, 2006. Respondent timely filed her Notice of Defense
16 contesting the Accusation. A copy of Accusation No. AC-2007-6 is attached as exhibit A and is
17 incorporated herein by reference.

18 ADVISEMENT AND WAIVERS

19 5. Respondent has carefully read, fully discussed with counsel, and
20 understands the charges and allegations in Accusation No. AC-2007-6. Respondent has also
21 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
22 Settlement and Disciplinary Order.

23 6. Respondent is fully aware of her legal rights in this matter, including the
24 right to a hearing on the charges and allegations in the Accusation; the right to confront and
25 cross-examine the witnesses against her; the right to present evidence and to testify on her own
26 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
27 production of documents; the right to reconsideration and court review of an adverse decision;

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1 and all other rights accorded by the California Administrative Procedure Act and other
2 applicable laws.

3 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
4 each and every right set forth above.

5 CULPABILITY

6 8. The parties acknowledge that the basis for the Accusation's alleged
7 violations of California Business and Professions Code¹ Section 5100, subparagraphs (h) and (l)
8 is the decision and Order entered by the United States Securities and Exchange Commission
9 ("SEC" or "Commission") on June 7, 2006, in its case *In the Matter of Nevanna Sacks, CPA*,
10 Respondent (Administrative Proceeding File 3-12326) (see paragraph 14 of the Accusation).²
11 Respondent herein, Nevanna Sacks, without admitting or denying the findings of the SEC Order,
12 except as to the Commission's jurisdiction over her and the subject matter of the Commission's
13 proceedings, consented, effective June 7, 2006, to the entry of an *Order Instituting Public*
14 *Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice,*
15 *Making Findings, and Imposing Remedial Sanctions ("Order").*

16 9. Respondent Sacks admits the matters alleged in paragraphs 10, 14, and 15,
17 and that the SEC's Order, described above and in the Accusation, provides the basis for
18 violations of Code Section 5100, subparagraphs (h) and (l), as alleged in paragraphs 16 and 17 of
19 the Accusation.

20 10. Respondent agrees that her Certified Public Accountant Certificate is
21 subject to discipline and she agrees to be bound by the Board's imposition of discipline as set
22 forth in the Disciplinary Order below.

23 CONTINGENCY

24 11. This stipulation shall be subject to approval by the California Board of
25

26 ¹ The California Business and Professions Code is referred to hereinafter as the "Code".

27 ² The Order is also filed as "Securities and Exchange Act of 1934 Release No. 53953/
28 June 7, 2006" and "Accounting and Auditing Enforcement Release No. 2441/June 7, 2006."

1 Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of
2 the California Board of Accountancy may communicate directly with the Board regarding this
3 stipulation and settlement, without notice to or participation by Respondent or her counsel. By
4 signing the stipulation, Respondent understands and agrees that she may not withdraw her
5 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
6 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
7 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
8 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
9 further action by having considered this matter.

10 12. The parties understand and agree that facsimile copies of this Stipulated
11 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
12 force and effect as the originals.

13 13. In consideration of the foregoing admissions and stipulations, the parties
14 agree that the Board may, without further notice or formal proceeding, issue and enter the
15 following Disciplinary Order:

16
17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No.
19 78291 issued to Respondent Nevanna Sacks, C.P.A. (Respondent) is revoked. However, the
20 revocation is stayed and Respondent is placed on probation for three (3) years on the following
21 terms and conditions.

22 1. **Actual Suspension.** Certified Public Accountant Certificate No. CPA
23 78291 issued to Nevanna Sacks is suspended for forty-five (45) days. During the period of
24 suspension, Respondent shall engage in no activities for which certification as a Certified Public
25 Accountant or Public Accountant is required as described in Business and Professions Code,
26 Division 3, Chapter 1, Section 5051, and shall not hold herself out in any manner as a licensee of
27 the Board.

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1 2. **Active License Status.** Respondent shall at all times maintain an active
2 license status with the Board, including during any period of suspension. If the license is expired
3 or is inactive at the time the Board's decision becomes effective, the license must be renewed and
4 made active within 90 (ninety) days of the effective date of the decision. The period of
5 suspension will commence upon license activation.

6 3. **Obey All Laws.** Respondent shall obey all federal, California, other
7 states' and local laws, including those rules relating to the practice of public accountancy in
8 California.

9 4. **Submit Written Reports.** Respondent shall submit, within ten (10) days
10 of completion of the quarter, written reports to the Board on a form obtained from the Board.
11 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
12 and verification of actions as are required. These reports, declarations, and/or verifications shall
13 contain statements relative to Respondent's compliance with all the terms and conditions of
14 probation. Respondent shall immediately execute all release of information forms as may be
15 required by the Board or its representatives to confirm Respondent's compliance with the terms
16 and conditions of probation.

17 5. **Personal Appearances.** Respondent shall, during the period of probation,
18 appear in person at interviews/meetings as directed by the Board or its designated
19 representatives, provided such notification is accomplished in a timely manner.

20 6. **Comply With Probation.** Respondent shall fully comply with the terms
21 and conditions of the probation imposed by the Board and shall cooperate fully with
22 representatives of the Board of Accountancy in its monitoring and investigation of the
23 Respondent's compliance with probation terms and conditions.

24 7. **Cooperate with Board.** Respondent will cooperate with Board
25 investigations as provided in the preceding paragraph.

26 8. **Comply With Citations.** Respondent shall comply with all final orders
27 resulting from citations issued by the Board of Accountancy.

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9. **Tolling of Probation For Out-of-State Residence/Practice.** In the event Respondent should leave California to reside or practice outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

10. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

11. **Cost Reimbursement.** Respondent shall reimburse the Board \$2,116.00 (Two Thousand One Hundred Sixteen Dollars) for its investigation and prosecution costs. The payment shall be made within 90 (ninety) days of the date the Board's decision is final.

12. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Stephen Sutro. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

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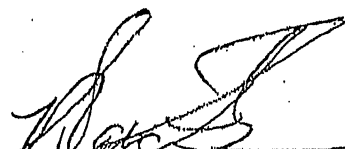
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1 DATED: 11/13/2006

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NEVANNA SACKS, C.P.A. (Respondent)
Respondent

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I have read and fully discussed with Respondent Nevanna Sacks, C.P.A. the terms
and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
Order. I approve its form and content.

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DATED: 11/13/2006


STEPHEN SUTRO
Attorney for Respondent

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DATED: 11/13/2006

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BILL LOCKYER, Attorney General
of the State of California

MARGARET A. LAFKO
Lead Supervising Deputy Attorney General


LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Attorneys for Complainant

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DOJ Matter ID: SD2006801722
Sacks Stipulation [Revised 11-6-06].wpd

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2007-6

NEVANNA SACKS, C.P.A.
2155 Via Sinalda
La Jolla, CA 92037

Certified Public Accountant Certificate
No. 78291

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 7, 2007.

It is so ORDERED December 8, 2006.


FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A

Accusation No. AC-2007-6

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
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3 California Department of Justice
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9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2007-6

13 NEVANNA SACKS, C.P.A.

14 12177 Caminito Mira Del Mar
San Diego, CA 92130

15 Certified Public Accountant Certificate
16 No. 78291

A C C U S A T I O N

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California Board of Accountancy, Department of
23 Consumer Affairs.

24 2. On or about November 26, 1999, the California Board of Accountancy
25 issued Certified Public Accountant Certificate Number 78291 to Nevanna Sacks, C.P.A.
26 (Respondent). The Certified Public Accountant Certificate was in full force and effect at all
27 times relevant to the charges brought herein and will expire on February 28, 2007, unless
28 renewed. Since March 1, 2003 the certificate has been in an inactive status.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 5100 of the Code states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"....

"(h) Suspension or revocation of the right to practice before any governmental body or agency.

"....

"(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation."

5. Code section 5063, subdivision (a), states, in the pertinent part:

"A licensee shall report to the board in writing of the occurrence of any of the following events . . . within 30 days of the date the licensee has knowledge of these events:

"....

"(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency."

6. Code section 5109 state:

"The expiration, cancellation, forfeiture, or suspension of a license, practice, privilege, or other authority to practice public accountancy by operation of law or by order or

1 decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall
2 not deprive the board of jurisdiction to commence or proceed with any investigation of or action
3 or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the
4 license.”

5 7. Section 5107(a) of the Code states:

6 "The executive officer of the board may request the administrative law judge, as
7 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
8 certificate found to have committed a violation or violations of this chapter to pay to the board all
9 reasonable costs of investigation and prosecution of the case, including, but not limited to,
10 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

11 8. Code of Federal Regulations, Title 17 Commodity and Securities
12 Exchanges, section 201.102 - Appearance and practice before the Commission, provides that the
13 [Securities and Exchange] Commission may deny the privilege of appearing or practicing before
14 it to any person who is found to have engaged in improper professional conduct. With respect to
15 persons licensed to practice as accountants, "improper professional conduct" includes negligent
16 conduct evidenced by "repeated instances of unreasonable conduct, each resulting in a violation
17 of applicable professional standards, including lack of competence to practice before the
18 Commission."

19 9. Code of Federal Regulations, Title 17, section 201.102, subdivision (e)
20 provides, in pertinent part:

21 "Suspension and disbarment.

22 "(1) Generally. The Commission may censure a person or deny, temporarily or
23 permanently, the privilege of appearing or practicing before it in any way to any person who is
24 found by the Commission after notice and opportunity for hearing in the matter:

25 "...

26 "(ii) To be lacking in character or integrity or to have engaged in unethical or
27 improper professional conduct; . . ."

28 ///

FACTS

10. At all times mentioned herein, Respondent was employed by the accounting firm, Arthur Andersen. In September, 2000, Respondent became an audit manager on the Peregrine engagement. Peregrine is a software company that was headquartered in San Diego, California.

11. During the time while Respondent was an audit manager for the Peregrine engagement, various facts were revealed to her by other personnel of Arthur Andersen to indicate that Peregrine was a high risk with respect to its revenue recognition practices. Peregrine was a high risk because it included revenue in its reporting from reseller sales that in many instances had not been collected. Despite this knowledge, Respondent did not employ generally accepted auditing standards in auditing Peregrine's financial statements, and did not obtain sufficient competent evidence to provide a reasonable basis for Arthur Andersen to form an opinion on Peregrine's financial statements, yet they were approved. This resulted in overstatement of Peregrine's revenue to the Securities and Exchange Commission. Peregrine's accounting irregularities due to its revenue recognition practices were discovered in May, 2002. Ultimately, Peregrine's financial statements were restated, resulting in a reduction of its revenues for the restatement period by 509 million dollars.

12. On or about May 25, 2006, Respondent sent correspondence to the Board, including a Licensee Reporting Form to report two reportable events, a restatement of a financial statement, and the initiation of an investigation of Respondent by the Securities and Exchange Commission. Respondent also included a Newswire press release dated February 28, 2003 with the following headline: "Peregrine Systems Files Audited Financial Statements for Three Fiscal Years Ended March 31, 2002; Restates Fiscal Years 2001 and 2002." For the restatement period of April 1, 1999 through December 31, 2001, the reported revenue for Peregrine Systems was reduced from 1.34 billion by 509 million.

13. On or about June 7, 2006, Respondent sent correspondence to the Board providing notification that her privilege of appearing or practicing before the Securities and

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1 Exchange Commission was "temporarily suspended." The copy of the Commission's order and
2 Respondent's offer of settlement to the Commission were enclosed.

3 14. On or about June 7, 2006, in Administrative Proceeding File No. 3-1236,
4 the Securities and Exchange Commission of the United States of America issued an order
5 instituting public administrative proceedings pursuant to Rule 102(e) of the Commission's Rules
6 of Practice, making findings, and imposing remedial sanctions against Respondent Nevanna
7 Sacks, C.P.A. The Commission's order included, but was not limited to, the following findings:

8 a. Respondent had engaged in improper professional conduct in the
9 context of a revenue recognition fraud being conducted by Peregrine personnel and others.

10 b. Respondent failed to exercise due professional care while conducting
11 the Peregrine audit, including repeated instances of unreasonable conduct that resulted in
12 violations of professional standards in the performance of Respondent's reviews and audit of
13 Peregrine's financial statements.

14 c. Respondent had engaged in improper professional conduct by repeatedly
15 engaging in unreasonable conduct, resulting in a violation of applicable professional standards,
16 which indicated a lack of competence to practice before the Commission pursuant to Rule
17 102(e)(1)(ii).

18 15. The Commission's order imposed sanctions on Respondent which
19 included:

20 a. Respondent was denied the privilege of appearing or practicing
21 before the Commission as an accountant.

22 b. After two years from the date of the order, Respondent was
23 allowed to request that the Commission consider her reinstatement by submitting an application
24 to resume appearing or practicing before the Commission as a preparer or reviewer, or a person
25 responsible for the preparation or review, of any public company's financial statements that are
26 filed with the Commission, or as an independent accountant.

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28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Suspension of Right to Practice)

3 16. Respondent has subjected her certificate to disciplinary action under Code
4 section 5100, subdivision (h), in that Respondent was denied the privilege of appearing or
5 practicing before the Securities and Exchange Commission of the United States of America, as is
6 set forth in paragraphs 10 through 15, above.

7 SECOND CAUSE FOR DISCIPLINE

8 (Imposition of Discipline, Penalty, or Sanction)

9 17. Respondent has subjected her certificate to disciplinary action under Code
10 section 5100, subdivision (l) in that Respondent has been sanctioned by the United States
11 Securities and Exchange Commission, as is set forth in paragraphs 10 through 15, above.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

15 1. Revoking or suspending or otherwise imposing discipline upon Certified
16 Public Accountant Certificate Number 78291, issued to Nevanna Sacks, C.P.A.

17 2. Ordering Nevanna Sacks, C.P.A. to pay the California Board of
18 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
19 Business and Professions Code section 5107;

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: September 22, 2006


CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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